REMARKS

The Applicant has now had an opportunity to carefully consider the comments set forth in the Office Action that was mailed July 9, 2007. The allowance of claims 6-24 and 26-29 (claim number 25 having been inadvertently skipped in the original application) and the recognition of allowable subject matter in claims 2-5 is noted with appreciation. Nevertheless, the rejection of claim 1 is respectfully traversed. Reexamination and reconsideration are respectfully requested.

The Office Action

In the Office Action that was mailed July 9, 2007:

claims 6-24 and **26-29** were allowed;

claims 2-5 were recognized as including allowable subject matter; and

claim 1 was rejected under 35 USC §103(a) as being unpatentable over European Patent Application No. 1096742 A1 by Chen ("Chen").

The Present Application

By way of brief review, the present application is directed toward systems and methods for responding to a Maximum Bitrate request in a more efficient manner than was previously known or provided (e.g. paragraphs 6-9). The methods include responding to a Maximum Bitrate request by comparing the requested Maximum Bitrate and a Maximum Bitrate limit to Supported Maximum Bitrates. If the Maximum Bitrate is not at least as high as the lowest Supported Maximum Bitrate, communications services associated with the requested Maximum Bitrate are not provided. If the Maximum Bitrate is at least as high as the lowest Supported Maximum Bitrate, an Offered Bitrate is selected from a set of Supported Maximum Bitrates that is at least as high as the requested Maximum Bitrate and no higher than the Maximum Bitrate limit as long as such a Supported Maximum Bitrate exists. If such a Supported Maximum Bitrate does not exist, the Offered Bitrate is selected to be a highest available Supported Maximum Bitrate that is not higher than the Maximum Bitrate limit (Abstract).

The Cited Document

In contrast, the cited document by Chen discusses a service QoS framework for GPRS/UMTS. In this framework, for each MS/UE, media flows are classified and grouped into a set of QoS Classes. Flows of different QoS Classes are identified and differentiated to meet the specific transmission requirements of each QoS Class. Flows of the same QoS Class are processed and forwarded across the network in the same way to meet their QoS specifications (Abstract).

Chen makes reference to the phrases -- QoS requested -- and -- QoS negotiated --. However, Chen does not disclose or suggest a QoS negotiation technique or method (e.g., paragraph [0028]). Accordingly, there is no indication that the negotiation of Chen is any different than the problematic negotiation technique referred to in the present application (paragraphs [0006] – [0008]). It is respectfully submitted that if the efficient methods for arriving at an agreed upon Maximum Bitrate of the present application were obvious in light of Chen, Chen would have included them in the system of Chen.

The Claims Are Not Obvious

Claim 1 was rejected under 35 USC §103(a) as being unpatentable over Chen. In explaining this rejection, the Office Action asserts that Chen discloses determining if a Maximum Bitrate limit of the subscriber is equal to or greater than a value of a lowest valued member of a set of available Maximum Bitrate values and cites column 10, lines 6-8 in support of this assertion.

However, column 10, lines 6-8, (i.e., paragraph [0042]) recite: The QoS Class is mapped to the specific service class/priority levels at the network/MAC layer with the corresponding parameters translated.

It is respectfully submitted that this citation does not support the assertion that Chen discloses determining if a Maximum Bitrate limit of subscriber is equal to or greater than a value of a lowest valued member of a set of available Maximum Bitrate values as recited in **claim 1**.

The Office Action also cites column 9, lines 52-54 (i.e., paragraph [0040]) in support of the assertion that Chen discloses offering to provide requested

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communication services in association with an offered Maximum Bitrate if the Maximum Bitrate limit of the subscriber is equal to or greater than the value of the lowest valued member of the set of available Maximum Bitrate values.

However, the cited portion of column 9 only indicates that: A media component or flow in a multimedia session is classified into a specific QoS Class with the associated qualitative/quantitative parameters.

It is respectfully submitted that the cited portion does not disclose or suggest offering to provide requested communication services in association with an offered Maximum Bitrate, if the Maximum Bitrate limit of the subscriber is equal to or greater than the value of the lowest valued member of the set of available Maximum Bitrate values, as recited in **claim 1**.

With regard to the recitation in **claim 1** of declining the requested communication services if the Maximum Bitrate limit of the subscriber is not equal to or greater than the value of the lowest valued member of the set of available Maximum Bitrate values, the Office Action cites column 10, lines 49-52.

However, the cited portion of Chen indicates that: A MS/UE initiated multimedia service request with the associated QoS Classes needs to be authorized according to the subscribed QoS_Profiles. It is respectfully submitted that nothing in the cited portion of column 10 discloses or suggests declining the requested communication service if the Maximum Bitrate limit of the subscriber is not equal to or greater than the value of the lowest valued member of the set of available Maximum Bitrate values.

It is respectfully submitted that each of the assertions with regard to these elements of **claim 1** represents a **clear error** of the Office Action. Since the cited portions of Chen do not include the subject matter for which they are relied, **claim 1** is not obvious in light of Chen. Furthermore, it is respectfully submitted that any motivation to interpret the cited portions of Chen as disclosing the subject matter for which the Office Action relies upon them could only have been based on information gleaned from the present application. Accordingly, the rejection of **claim 1** is based on impermissible hindsight reasoning.

Additionally, the Office Action stipulates that Chen does not disclose a substantial portion of the recitation of **claim 1** related to the offering to provide

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requested communication services discussed above. That is, the Office Action stipulates that Chen does not disclose that the offered Maximum Bitrate value is equal to a value of a member of an allowable subset of the set of available Maximum Bitrates, the allowable subset consisting of members of the set of available Maximum Bitrates that have values less than or equal to the Maximum Bitrate limit, and the offered Maximum Bitrate being equal to a value of a member of the allowable subset that is greater than or equal to the lower of the requested Maximum Bitrate and the Maximum Bitrate, or has the highest value of the subset.

In an effort to make up for this deficiency of Chen, the Office Action asserts that is well known in the art to use a lookup table to find an appropriate and allowable value or level of service associated with a type of data stream or subscription level. From this assertion, the Office Action goes on to assert that it would have been obvious to use a lookup table comprising bitrate values in a network element method of Chen and that such a lookup table can be implemented into the network element of Chen by allocating a portion of the memory or storage unit of the network element for the lookup table to be used when a bitrate request is received from another subscriber. The Office Action goes on to assert that the motivation for combining the lookup table with the network element of Chen is that a lookup table would be a memory efficient and minimally CPU-intensive way to make a decision of what service level and/or bitrate value to allocate to the subscriber based on the subscriber's subscription level and/or actual need.

However, it is respectfully submitted that the portion of the recitation of offering to provide requested communication services that the Office Action stipulates is not disclosed by Chen does not include any recitation related to a lookup table. Accordingly, whether lookup tables are known in the art is immaterial. Furthermore, even if it would be obvious to use a lookup table comprising bitrate values in a network element method of Chen, that does not disclose or suggest that an offered Maximum Bitrate value be equal to a value of a member of an allowable subset of the set of available Maximum Bitrate values, the allowable subset consisting of members of the set of available Maximum Bitrates that have values less than or equal to the Maximum Bitrate limit, and the offered Maximum Bitrate being equal to a value of a member of the

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allowable subset that is greater than or equal to the lower of the requested Maximum Bitrate value and the Maximum Bitrate limit, or has the highest value of the subset.

Clearly, the recitation in **claim 1** related to offering to provide requested communication services involves more than the suggested lookup table look up.

Accordingly, even if there were motivation in the art to combine lookup tables with the system of Chen, such a combination would not arrive at the subject matter recited in **claim 1**.

Furthermore, it is respectfully submitted there is no motivation in the art for combining the suggested lookup table with the system of Chen. Although it is respectfully submitted that Chen does not discuss how the system of Chen arrives at a -- QoS negotiated --, it does appear that the system of Chen does determine a -- QoS negotiated -- and there is no suggestion in Chen or in the art as a whole other than that provided by the present application, that the method by which Chen arrives at the -- QoS negotiated -- needs to be, or can be, improved. Furthermore, there is no indication in Chen or the art as a whole that the use of lookup tables would somehow provide such an improvement.

Moreover, it is noted that while Chen mentions a -- QoS negotiated -- Chen does not refer to an offered or negotiated Maximum Bitrate. Accordingly, it is respectfully submitted that the only motivation to read Chen as being related to an offered Maximum Bitrate is based on information gleaned only from the present application. Accordingly, again, the rejection of **claim 1** is based on impermissible hindsight reasoning and reconsideration and withdrawal of the rejection of **claim 1** is respectfully requested.

Telephone Interview

In the interests of advancing this application to issue the Applicant(s) respectfully request that the Examiner telephone the undersigned to discuss the foregoing or any suggestions that the Examiner may have to place the case in condition for allowance.

CONCLUSION

Claims 6-24 and **26-29** have been allowed. **Claims 2-5** have been identified as including allowable subject matter. For at least the foregoing reasons, **claim 1** is also allowable. Accordingly, **claims 1-24** and **26-29**, and the application as a whole (**claim 25** having been skipped in the original application) are allowable. Accordingly, an early indicated thereof is respectfully requested.

Respectfully submitted,

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November 9, 2007
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